



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/447,351	11/22/1999	RONALD M. HUBERMAN	97573-U.S.	3718

23553 7590 09/24/2003

MARKS & CLERK
P.O. BOX 957
STATION B
OTTAWA, ON K1P 5S7
CANADA

EXAMINER

NGUYEN, VAN KIM T

ART UNIT	PAPER NUMBER
----------	--------------

2661

DATE MAILED: 09/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/447,351

Applicant(s)

HUBERMAN ET AL.

Examiner

Van Kim T. Nguyen

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is responsive to communications filed on July 14, 2003. Applicant's responses have been carefully reviewed and considered. However, they are not persuasive.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10-16, 18, and 29-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Milito (US 5,596,576).

Regarding claims 10-11, 15-16 and 30, Milito discloses a credit method and system for use in sharing of resources in a telecommunication system (col. 1: lines 10-59) comprising: periodically assigning credit tokens to a bucket, blocking a call (deny access) to the dialed number (trunk, 3-port conference circuits and UTP) if there are no current credit tokens assigned to the bucket, and permitting the call (permit access) if there is at least one token (cols. 3-11, esp. col. 3, lines 45-62).

Regarding claims 12 and 31, Milito also discloses a credit overflow threshold is provided whereby no new credit tokens are assigned to the bucket when the threshold has been reached (col. 7: lines 45-58).

Regarding claim 13-14, 18, and 29, Milito also discloses a credit bucket mechanism to set an interval for issuing credit tokens to the bucket and a detector to determine if any credits are in the bucket (cols. 8-9).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 23, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ram et al (US 6,038,309), in view of Margulis et al (US 6,243,449).

Regarding claims 1-2, 23 and 27, as shown in Figures 1-7, Ram discloses a call server (32, 33, 34, 36; column 5: lines 13-39, and column 8: lines 34-48) for use in association with a packet network (24) which transports calls between end systems (22) in a public switched telephone network (20). The packet network having interworking functionality to bi-directionally convert TDM signals and packets (cols. 6-7, esp. col. 6: lines 18-29), the call server having means to centrally control functionality within the packet network and TDM switches within the PSTN (col. 8: lines 34-48).

However, Ram does not call for means to detect a mass calling event in real time.

As shown in Figures 1-3, Margulis teaches means for detecting a mass calling event in real time (cols. 1-9).

Since it is highly desirable to be able to monitor data throughput in a multi-media communication network, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to utilize Margulis' method of detecting and controlling mass calling event in Ram's system for externally controlling call processing in order to avoid switch congestion and optimize the use of system's resources.

Claim Rejections - 35 USC § 103

Claims 3-9, 17, 19-22, 24-26, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ram et al (US 6,038,309), in view of Margulis (US 6,243,449) as applied to claims 1-2, 23, and 27 above.

Regarding claims 3-5, 19-22, and 24-26, the combination of Ram and Margulis also discloses the packet network is based on an ATM, or a Frame Relay, or an IP packet protocol, (Ram, column 5: lines 21-24).

Regarding claims 6 and 28, the combination of Ram and Margulis also discloses means to detect an end of a mass calling event and to cease regulation of calling activity upon detection of an end of a mass calling event (Margulis, cols 7-8, esp. col. 8: lines 53-63).

Regarding claims 7 and 17, the combination of Ram and Margulis also discloses means to detect the ratio of failed call events initiated to a call destination (Margulis, cols. 4-7).

Regarding claims 8-9, the combination of Ram and Margulis also discloses means to convert (mapping) directory numbers (destination number) to un-translated dialed numbers (terminating number) and to convert un-translated dialed numbers to directory numbers (Margulis, col. 8-9); and having memory means for storing a directory number of a call terminator (Margulis, col. 9: lines 5-12; Ram, col. 11, lines 23-28).

As previously stated, since it is highly desirable to be able to monitor data throughput in a multi-media communication network, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to utilize Margulis' method of detecting and controlling mass calling event in Ram's system for externally controlling call processing in order to avoid switch congestion and optimize the use of the system's resources.

Response to Arguments

Applicant's arguments filed July 14, 2003 have been fully considered but they are not persuasive.

Claims 10 and 15 have been amended to limit the credit method to a telecommunications system in which a packet transport network is employed to transport calls between end systems within a PSTN. Applicant argues that the cited patent, Milito (US 5,596,576), does not suggest or teach the credit method in such environment. However, as shown in Figs. 1-6, Milito does disclose utilizing the method as a solution for sharing limited telecommunications resources among customers' requests (col. 1: lines 13-15), in which a packet network (the digital switch 5ESS) is employed to transport calls between end systems (multi-class traffic, including wireless services; col. 1: lines 38-47).

Claims 1, 2, 23, and 27 have been amended to restrict the environment to a system in which a packet transport network is used to transport calls between end systems within a PSTN. Applicant argues that both of the cited references, Ram et al (US 6,038,309) and Margulis et al (US 6,243,449) do not refer to a packet transport network. Applicant further argues that the cited references only apply to transport through a PSTN and not a packet transport system. However, as shown in Figs. 1-29, Ram discloses link 40 includes an Ethernet link (inherently linking two Ethernet networks), but may include any other communications standards and hardware such as IEEE 802.3, FDDI, ATM (inherently could be packets/cells or frames networks; col. 5: lines 21-24, and col. 7: lines 16-18).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 2661

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

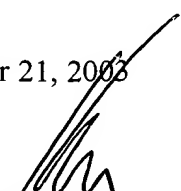
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Van Kim T. Nguyen whose telephone number is 703-305-7692. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W. Olms can be reached on 703-305-4703. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

vkn

September 21, 2003


KENNETH VANDERPUYE
PRIMARY EXAMINER